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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,947	01/15/2004	Robert Auer	7400-X03-047	6207
27317	7590	08/19/2005	EXAMINER	
FLEIT KAIN GIBBONS GUTMAN BONGINI & BIANCO COURVOISIER CENTRE II, SUITE 404 601 BRICKELL KEY DRIVE MIAMI, FL 33131			PERRIN, JOSEPH L	
		ART UNIT		PAPER NUMBER
		1746		

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/758,947	AUER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joseph L. Perrin, Ph.D.	1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 22 July 2005.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 19-24 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 19-24 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 20050722 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 22 July 2005 has been entered.

### ***Response to Arguments***

2. Applicant's amendment canceling all previous claims and introducing new claims 19-24 render the previous rejections moot.

### ***Drawings***

3. The drawings are objected to because the drawings contain new matter (newly introduced Figure 3). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the

replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

4. The amendment filed 22 July 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: proposed drawing for Figure 3 and the reference numerals contained therein, and newly amended Specification paragraph [0025] containing said reference numerals.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 19-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "highly concentrated" in claim 19 is a relative term which renders the claim indefinite. The term "highly concentrated" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. In claim 19, the additives being in a "highly concentrated form" render the claim indefinite because applicant has failed to define the metes and bounds of the patent protection sought. How does this differ from a "concentrated form"? Since the comparison of virtually any two compositions of different concentrations would read on one composition being in a more "highly concentrated form", the claims will be construed accordingly. However, clarification and correction are still required.

#### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 19 & 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over HICKMAN in view of U.S. Patent No. 4,848,381 to LIVINGSTON *et al.* (hereinafter "LIVINGSTON"). HICKMAN discloses a carwash with a plurality of different shaped cartridges (wax and detergent containers 62/64) and a holding and dispensing container (device 60 including pump 38) configured to hold and dispense the cartridges/containers, connecting means such as various pipes, and means for diluting/dissolving detergent and wax with water (see Figure 1 and relative associated text, col. 1, lines 25-54, col. 2, lines 25-72). HICKMAN discloses the claimed invention with the exception of geometrically distinctive detachable couplings to form a "mistake-proof" mounting. LIVINGSTON teaches that it is known to provide a cleaning system with a plurality of additive bottles having "different size bottle 'seats' ... corresponding to

detergent and sanitizer bottles of different sizes, to discourage inadvertent connection...to the wrong chemical supply." (see col. 8, lines 25-30)

Although LIVINGSTON does disclose different sized detachable couplings for the purpose of providing mistake-proof couplings, LIVINGSTON does not expressly disclose different shaped detachable couplings for the purpose of mistake-proof couplings. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute one mistake-proof coupling for the other since applicant has not disclosed that different geometrical shapes as a mistake-proof coupling solves any other stated problem or is for any other particular purpose and it appears that the invention would perform equally well with other mistake-proof couplings and the selection of any of these equivalents to provide a mistake-proof coupling between plural chemical containers and a dispensing means would be within the level of ordinary skill in the art.

Moreover, the position is taken that a person of ordinary skill in the art at the time the invention was made would have had a reasonable expectation of success in substituting one type of mistake-proof mounting (i.e. different shape) with another type of mistake-proof mounting (i.e. different size) since such a modification would have involved a mere change in the form or shape of a component. A change in form or shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 149 USPQ 47 (CCPA 1976).

11. Claims 19 & 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 4237356 to ECKHART (electronic translation provide by the Examiner) in view of LIVINGSTON. ECKHART discloses a carwash with a plurality of cartridges (containers 33/34) and a holding and dispensing container (2) configured to hold and dispense the cartridges/containers, connecting means such as various pipes, mixing means such as units (15/16) and means for diluting/dissolving detergent and wax with water (see Figures 2 & 7 and relative associated text). ECKHART discloses the claimed invention with the exception of geometrically distinctive detachable couplings to form a "mistake-proof" mounting. LIVINGSTON teaches that it is known to provide a cleaning system with a plurality of additive bottles having "different size bottle 'seats'...corresponding to detergent and sanitizer bottles of different sizes, to discourage inadvertent connection...to the wrong chemical supply." (see col. 8, lines 25-30)

Although LIVINGSTON does disclose different sized detachable couplings for the purpose of providing mistake-proof couplings, LIVINGSTON does not expressly disclose different shaped detachable couplings for the purpose of mistake-proof couplings. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute one mistake-proof coupling for the other since applicant has not disclosed that different geometrical shapes as a mistake-proof coupling solves any other stated problem or is for any other particular purpose other than providing a mistake-proof coupling, and it appears that the invention would perform equally well with other mistake-proof couplings and the selection of any of these

equivalents to provide a mistake-proof coupling between plural chemical containers and a dispensing means would be within the level of ordinary skill in the art.

Moreover, the position is taken that a person of ordinary skill in the art at the time the invention was made would have had a reasonable expectation of success in substituting one type of mistake-proof mounting (i.e. different shape) with another type of mistake-proof mounting (i.e. different size) since such a modification would have involved a mere change in the form or shape of a component. A change in form or shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 149 USPQ 47 (CCPA 1976).

12. Claims 19 & 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over FERRE in view of LIVINGSTON. FERRE discloses a carwash installation including a plurality of cartridges (982/984) detachably coupled to a holding and dispensing container (922/924/926) (see Figure 20 and relative associated text). FERRE discloses the claimed invention with the exception of geometrically distinctive detachable couplings to form a "mistake-proof" mounting. LIVINGSTON teaches that it is known to provide a cleaning system with a plurality of additive bottles having "different size bottle 'seats'...corresponding to detergent and sanitizer bottles of different sizes, to discourage inadvertent connection...to the wrong chemical supply." (see col. 8, lines 25-30)

Although LIVINGSTON does disclose different sized detachable couplings for the purpose of providing mistake-proof couplings, LIVINGSTON does not expressly

disclose different shaped detachable couplings for the purpose of mistake-proof couplings. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute one mistake-proof coupling for the other since applicant has not disclosed that different geometrical shapes as a mistake-proof coupling solves any other stated problem or is for any other particular purpose other than providing a mistake-proof coupling, and it appears that the invention would perform equally well with other mistake-proof couplings and the selection of any of these equivalents to provide a mistake-proof coupling between plural chemical containers and a dispensing means would be within the level of ordinary skill in the art.

Moreover, the position is taken that a person of ordinary skill in the art at the time the invention was made would have had a reasonable expectation of success in substituting one type of mistake-proof mounting (i.e. different shape) with another type of mistake-proof mounting (i.e. different size) since such a modification would have involved a mere change in the form or shape of a component. A change in form or shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 149 USPQ 47 (CCPA 1976).

13. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over either HICKMAN or ECKART or FERRE in view of LIVINGSTON, and further in view of KAWAKITA (previously cited). Recitation of HICKMAN, ECKART, FERRE, and LIVINGSTON are repeated here from above. The cited references do not disclose using snap closures to secure detergent cartridges/containers to a holding means.

KAWAKITA teaches that it is known to use snap closures for chemical additive containers such as soap dispensers and automobile chemical dispensers for "spill safety" and "convenience" (see paragraphs [0003], [0004], & [0239]). Therefore, the position is taken that a person of ordinary skill in the art at the time the invention was made would have been motivated to modify the apparatuses of the cited references with snap closures disclosed by KAWAKITA in order to provide improved spill safety and convenience in dispensing chemical additives.

14. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over either HICKMAN or ECKART or FERRE in view of LIVINGSTON, and further in view of CHEOK. Recitation of HICKMAN, ECKART, FERRE, and LIVINGSTON are repeated here from above. The cited references do not disclose using a detergent cartridge with multiple containers. CHEOK teaches that it is advantageous to supply a single portable container with multiple containers for storing and dispensing multiple different types of detergent such as a solid and a liquid (see Figures 1-2 and relative associated text, col. 2, lines 1-14). Therefore, the position is taken that a person of ordinary skill in the art at the time the invention was made would have been motivated to modify the apparatuses of the cited references with the container of CHEOK having multiple sub-containers for the purpose of supplying a plurality of additives to a detergent dispensing system. Moreover, it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

***Conclusion***

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 7:00-4:30, except alternate Fridays.
16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph L. Perrin, Ph.D.  
Primary Examiner  
Art Unit 1746

jlp